

25
FC
314
JONES

STATE OF MICHIGAN
IN THE 36TH DISTRICT COURT FOR THE CITY OF DETROIT
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN 36th District Court
 Case No. 02-69314
vs. Case No. 03-1609

MICHON HOUSTON,
Defendant. /

PRELIMINARY EXAMINATION

BEFORE THE HONORABLE DONALD COLEMAN
36TH DISTRICT COURT JUDGE
Detroit, Michigan - January 29, 2003

APPEARANCES:

For the People: KAM TOWNS P45518
 Assistant Wayne County Prosecutor

For the defendant: JAMES PARKER, ESQ. P53832
 645 Griswold #2350
 Detroit, MI 48226
 (313) 965-4384

Reported by: Sherrayna White Moore, CSR-6485
 Certified Shorthand Reporter
 (313) 965-6571

22/53

1 TABLE OF CONTENTS
2

3	<u>WITNESSES:</u>	PAGE
4	JOVAN JOHNSON	
5	Direct examination by Ms. Towns	7
6	Cross-examination by Mr. Parker	23
7	Redirect examination by Ms. Towns	45
8	Recross-examination by Mr. Parker	48
9		
10		
11		
12		
13		
14	EXHIBITS:	
15	None marked.	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 Detroit, Michigan

2 Wednesday, January 29, 2003

3 about 2:30 p.m.

4 --- --- ---

5 THE CLERK: This is Case Number
6 02-69314 State of Michigan versus Michon
7 Houston. The defendant is charged count one,
8 firearms--no, premeditated murder first degree;
9 count two, firearms possession by a felon; count
10 three, felony firearm; habitual offender forth
11 offense notice.

12 MS. TOWNS: Kam Towns, assistant
13 prosecuting attorney on behalf of the People.

14 MR. PARKER: James Parker on behalf
15 of Mr. Houston, your Honor. We make a motion
16 for sequestration in this matter.

17 MS. TOWNS: I would join in that
18 motion with the exception of the officer in
19 charge who is seated to my right, Sergeant Danny
20 Marshall who is also another homicide officer
21 and an officer by the name of Lance Reynolds who
22 is not involved in this case at all.

23 THE COURT: The Court will grant the
24 motion to sequester. If you think you might be
25 a witness in the People versus Michon Houston

today or at sometime in the future; it doesn't matter if it's for the defense or the prosecution, if you think you might be a witness in this case you must step out of the courtroom at this time; otherwise, you will be precluded from testifying at any point in the future.

MS. TOWNS: Could I in addition to, exempt the mother of the deceased, Cynthia Thomas. Her testimony will be limited at trial to the identification of her son's body.

THE COURT: She may remain.

MS. TOWNS: There's been a series of stipulations as it relates to this case. First of all, as it relates to count two, felon in possession, I have certified copies which I presented to defense counsel of the defendant's prior convictions, and I believe we're stipulating to the following: That on the date of 7/12/2000 on Case Number 00-6090 the defendant was convicted in Wayne County of receiving and concealing stolen property between one thousand and twenty thousand dollars; that being a felony. In addition, on the same date, File Number 00-6075 in Wayne County the defendant was convicted of delivery of less than

1 fifty grams of a controlled substance, that
2 being cocaine, also a felony; and lastly, on
3 Case Number 99-6527 on the date of August 23,
4 1999 the defendant was convicted of possession
5 of less than 25 grams of controlled substance,
6 also a felony.

7 I believe there's been a stipulation
8 as it relates to count two based on the
9 aforementioned Information and the copy of the
10 certified documents. Is that correct, Counsel?

11 MR. PARKER: My objection to that is
12 that for this particular matter felon in
13 possession, I think you only need one
14 conviction, and I'm questioning why we read two
15 or three convictions into the record. Why are
16 we doing this where-

17 THE COURT: I suppose that you would
18 be willing to stipulate at least one predicate
19 for purposes of the felon in possession of
20 firearm as established by defendant's history.

21 MR. PARKER: Exactly, but I'll
22 certainly also be putting the People on notice
23 and the fact that I believe you know as we
24 started piling this up I think that's
25 prejudicial because it only takes one for them

1 to establish the felon in possession charge.

2 THE COURT: Very well. The Court
3 will accept the stipulation that there is a
4 predicate underlined felony conviction that
5 would support the element for felon in
6 possession of a firearm.

7 MS. TOWNS: Thank you. I believe
8 there's also been a stipulation as it relates to
9 the testimony of Dr. Hlavata, H-l-a-v-a-t-a. If
10 Dr. Hlavata were here she would indicate that
11 she examined the 30-year old body of Carlton
12 Thomas on File Number 02-8524. Dr. Hlavata, as
13 I read from the court file, indicates that Mr.
14 Thomas died of multiple, specifically four,
15 gunshot wounds; one to the left knee, two to the
16 abdomen and one to the right cheek. There was
17 no evidence of close-range firing on the skin
18 surrounding any of the entrance wounds. The
19 majority of the wound tracks were from front to
20 back and left to right when the body is viewed
21 in the anatomical position. No bullets or parts
22 of bullets were recovered from the wound tract.
23 She further concluded that the manner of death
24 is homicide.

25 A further stipulation that the body

of Mr. Carlton, subsequent to the shooting, was identified by his mother, Ms. Cynthia Thomas. Is that a correct and proper stipulation?

THE COURT: As to those two stipulations indicated on this record, in addition to the first one that has already been agreed upon, do you stipulate for the limited purpose of examination as to the manner and cause of death as to the identification?

10 MR. PARKER: Yes, we do, your Honor.
11 We'll stipulate for preliminary examination
12 purposes only.

THE COURT: The stipulation will be accepted then at this time. You may proceed.

15 MS. TOWNS: Thank you. They're
16 bringing the witness out, Judge. Your Honor,
17 prior to this witness testifying, I would ask
18 that the Court instruct the defendant to remove
19 the Band-Aid from his face. It bears on the
20 issue of identification.

21 THE COURT: So ordered. All right.
22 You may proceed at this time.

1 DIRECT EXAMINATION

2 BY MS. TOWNS:

3 Q. Good afternoon, sir. I'm going to have you sit back
4 in your chair and tell the judge your name and your
5 age.

6 A. Jovan Johnson, 22.

7 THE COURT: Mr. Johnson, you're
8 going to have to keep your voice up because it's
9 difficult for me to hear you sitting here, and
10 everybody at these tables have to hear you. Do
11 you understand, sir?

12 THE WITNESS: Yes.

13 THE COURT: And the court reporter
14 has to take it down, so I definately need you to
15 keep your voice up. Let's proceed.

16 BY MS. TOWNS:

17 Q. Could you say your name again and your age for the
18 record, please.

19 A. Jovan Johnson, age 22.

20 Q. Mr. Johnson, do you also have a nickname that they
21 call you, sir?

22 A. Yes, ma'am.

23 Q. What is that, please?

24 A. Jay Dub (ph).

25 Q. Would that be Jay D-u-b?

1 A. Yes.

2 Q. You have to answer so the court reporter can take
3 down your response, sir. Sir, do you know somebody
4 by the name of Michon Houston also known as Shawn?

5 A. Yes, ma'am.

6 Q. And do you see that person that you know as Michon
7 Houston or Shawn in court today?

8 A. Yes, ma'am.

9 Q. Could you point to him and tell me where he's seated
10 and what he's wearing, please?

11 A. Seated right there with the green county suit on.

12 MS. TOWNS: Indicating for the
13 record, the witness has identified the defendant
14 Michon Houston in this case.

15 BY MS. TOWNS:

16 Q. Could you tell me by what name you know the
17 defendant?

18 A. Shawn.

19 Q. I'm going to draw your attention to the date of
20 September 6, 2002. Were you with the defendant,
21 Michon Houston on that day, sir?

22 A. Yes, ma'am.

23 Q. And could you tell me did there come a time when you
24 went over to the area of West Buena Vista (ph) and
25 Lynwood, sir?

1 A. Pardon me. I didn't hear you.

2 Q. I can't hear you, sir.

3 A. Could you repeat that.

4 Q. Did there come a time when you already indicated you
5 were with the defendant on the day of September 6th?
6 Do you recall telling us that?

7 A. Yes, ma'am.

8 Q. Did there come a time when you and the defendant went
9 over to the area of West Buena Vista and Lynwood on
10 that date, sir?

11 A. Yes, ma'am.

12 Q. Do you know about what time it was, sir?

13 A. Around about five.

14 THE COURT: Around about what time,
15 sir?

16 THE WITNESS: Five o'clock, sir.

17 BY MS. TOWNS:

18 Q. Five o'clock in the evening or in the morning?

19 A. In the morning.

20 Q. And could you tell me how did you get over to that
21 address?

22 A. We drove.

23 Q. And who was driving the car, sir?

24 A. Powder.

25 Q. Was that a male or female, sir?

1 A. Female.

2 Q. Could you describe--first of all, do you know
3 Powder's real name, sir?

4 A. No, ma'am.

5 Q. Could you describe what Powder looks like?

6 A. Short white girl.

7 Q. Do you know any relationship at all that exists
8 between Powder and the defendant, sir?

9 A. I guess they was kicking it, going together. I guess
10 they was going together.

11 MR. PARKER: That's speculation.

12 From that answer I see speculation here.

13 THE COURT: I'll allow the answer to
14 stand. The inquiry was what do you know. He
15 said they were kicking it and I guess they were
16 going together. That's a sufficient answer.

17 Let's proceed.

18 BY MS. TOWNS:

19 Q. You indicated that Powder was driving; is that
20 correct?

21 A. Yes, ma'am.

22 Q. Who was in the car, sir? You've got to speak up,
23 sir.

24 A. Who was in the car?

25 Q. Yes.

1 A. Me, Shawn and Powder.

2 Q. When you say Shawn you're talking about the
3 defendant, correct?

4 A. Yes, ma'am.

5 Q. Where did you go when you got over to West Buena
6 Vista and Lynwood, sir?

7 A. Went to the house we be sitting on the porch in the
8 neighborhood.

9 THE COURT: Went to the house that?

10 THE WITNESS: Porch that we be
11 sitting on.

12 BY MS. TOWNS:

13 Q. Do you know who lived at that house that you went to,
14 sir; that porch?

15 A. This lady named Lisa.

16 MR. PARKER: I can't hear.

17 THE WITNESS: A lady named Lisa.

18 THE COURT: A lady named Lisa lives
19 there?

20 THE WITNESS: Yes.

21 THE COURT: You said that's a porch
22 that you all sit on, true?

23 THE WITNESS: Yes, sir.

24 BY MS. TOWNS:

25 Q. When you get to that address do all three of you get

1 out of the car; you, Powder and the defendant?

2 A. Yes, ma'am.

3 Q. What do you all do?

4 A. Went on the porch.

5 Q. And do you remain outside on the porch once you get
6 up on the step, sir?

7 A. Yes, ma'am.

8 Q. And at that point do you see someone?

9 A. Yes, ma'am.

10 Q. You have to speak up, sir.

11 A. Yes, ma'am.

12 Q. And where do you see that person, sir?

13 A. Across the street.

14 Q. And what is across the street?

15 A. A field.

16 Q. Is that a vacant lot; a field, sir?

17 A. Yes.

18 Q. And, at the time you see this person across the
19 street are you, Powder and Shawn still on the front
20 porch, sir?

21 A. Yes, ma'am.

22 Q. Okay. Do you or the defendant say anything when you
23 see that person across the street?

24 A. Yes, ma'am.

25 Q. And what do you say?

1 A. I asked him what he need.

2 Q. And does the defendant say anything to him, sir?

3 A. We both asked him.

4 Q. Speak up, please.

5 A. We both asked him what he want.

6 Q. And what does that mean, sir? Why did you ask him,

7 you and the defendant?

8 A. Did he want any crack.

9 Q. I'm sorry?

10 A. Did he want any drugs.

11 Q. Are you personally aware of what the defendant does

12 for a living, sir?

13 A. I know he sells drugs for a living.

14 Q. I'm sorry?

15 THE COURT: You sell--you know he

16 sells drugs for a living?

17 THE WITNESS: Yeah.

18 BY MR. TOWNS:

19 Q. When you and the defendant yelled to this person

20 across the street what happens then, sir?

21 A. He had caught him before I did.

22 Q. When you say he had got him, who are you talking

23 about?

24 A. To give him the crack before I could give it to him.

25 Q. And when you say he got to him before you, who are

1 you talking about?

2 A. Shawn.

3 Q. Does Shawn come off the porch?

4 A. Yes, ma'am.

5 Q. Okay. And when he comes off the porch where are you
6 and Powder?

7 A. On the porch.

8 Q. And where do you see the defendant go when he comes
9 off the porch, sir?

10 A. Across the street.

11 Q. And is that where this person is, sir?

12 A. Huh?

13 Q. Is that where that person is in the field?

14 A. Yes, ma'am.

15 Q. And what do you see the defendant do when he gets
16 across the street into the field where this
17 individual is?

18 A. They was talking.

19 Q. And could you describe the individual that the
20 defendant was talking to; male or female?

21 A. Male.

22 Q. And did you ever see that man before?

23 A. Probably once or twice.

24 Q. And could you describe what that man looks like?

25 A. Heavy set, brown skin guy--not heavy set, but he

1 wasn't skinny.

2 Q. And can you hear what the defendant is saying when
3 he's talking to this man across the street in the
4 field?

5 A. No. I wasn't really paying attention.

6 Q. I'm sorry?

7 A. I did not really pay attention.

8 Q. And at some point did it change as far as the
9 defendant just talking to this guy?

10 A. Yes, ma'am.

11 Q. What did the defendant do, sir?

12 A. Started shouting.

13 Q. Started shouting?

14 A. Yes, ma'am.

15 Q. Could you hear what he was saying when he was
16 shouting, sir?

17 A. Yes, ma'am.

18 Q. What was he saying?

19 A. Bitch, bitch.

20 Q. And what was the defendant doing, sir, when he was
21 yelling bitch, bitch at him?

22 A. He was--they was running around the tree.

23 Q. Who was running in the front and who was running
24 behind, sir?

25 A. The guy that got shot was running in the front and

1 Shawn was running behind him.

2 Q. Would it be fair to say that he was chasing him?

3 A. Yeah.

4 Q. And what happens as he chases him around the tree,
5 sir?

6 A. What you say? What happened after?

7 Q. Yes. After he's chasing him around the tree and
8 yelling bitch, bitch, what happens next?

9 A. He shot him.

10 Q. Could you tell me how many times did he shoot him?

11 And, when you say he shot him, you're still talking
12 about Shawn, sir?

13 A. Yes, sir.

14 Q. And approximately how many times does he shoot the
15 man when he was standing over him, sir?

16 A. I don't really know.

17 || O. I'm sorry?

18 A. I don't really know for sure.

19 Q. Do you remember giving a statement to the police,
20 sir, on the 17th of November 2002?

21 A Yes, ma'am.

MS. TOWNS: Approaching the witness.

23 BY MS. TOWNS.

24 Q. You read your statement, sir. Would it refresh your
25 memory as it relates to how many times he shot him

1 and was standing over him?

2 A. I have two or three.

3 Q. I'm going to direct your attention to this area.

4 Just read it to yourself, sir. Did you have a chance
5 to read that, Mr. Johnson?

6 A. Yes, ma'am.

7 Q. Does that refresh your memory, sir, as to how many
8 times the defendant shot this man after he had fallen
9 down?

10 A. Yes, ma'am.

11 Q. How many times did he shoot him?

12 A. Two or three times.

13 Q. At the time you were witnessing this are you still on
14 the porch with Powder?

15 A. Yes, ma'am.

16 Q. And do you ever see that--strike that. After the
17 defendant shoots at this man two or three times what
18 does he do?

19 A. After he shot at him two or three times?

20 Q. Yes. After he stood over him and shot him two or
21 three times what does Shawn do? Does he stay in the
22 field?

23 A. Come across the street.

24 Q. And does he come across the street to where you are
25 on the porch?

1 A. Yes, ma'am.

2 Q. I'm going to ask you to speak up, please, sir.

3 A. Yes, ma'am.

4 Q. What does he say, if anything, to you when he comes
5 across the street?

6 A. Go see if he was dead.

7 Q. What do you say to him when he asked you to go see if
8 he's dead?

9 A. Told him no.

10 Q. And then what does the defendant say when you say no?

11 A. Told me bitch go look.

12 Q. And, when he says to you bitch go look, do you go
13 across the street?

14 A. Yes, ma'am.

15 Q. Where do you find the man, sir?

16 A. Laying in the field.

17 Q. And do you go up to that individual?

18 A. Yes, ma'am.

19 Q. And what do you do, sir, when you get over to where
20 the man is?

21 A. I looked at him and asked him was he all right and he
22 had moved.

23 Q. I'm sorry?

24 A. He had moved and I went back across the street.

25 Q. So, at the time you're talking to him, did you

1 determine he was still breathing, sir?

2 A. What it look like, yeah.

3 Q. And you indicated he moved; is that correct?

4 A. Yes, ma'am.

5 Q. What part of his body did he move?

6 A. His upper body.

7 Q. And you go back across the street to where the
8 defendant is?

9 A. Yes, ma'am.

10 Q. Where is he when you get back across the street?

11 A. Standing in the driveway.

12 Q. And where is Powder?

13 A. Still on the porch.

14 Q. And do you say anything to the defendant as far as
15 the condition of the man across the street? What do
16 you say to him?

17 A. I said he was dead.

18 Q. Then what does the defendant say, sir?

19 A. Nothing. He went and got the car.

20 Q. He went and got the car?

21 A. Yes, ma'am.

22 Q. Where was the car parked, sir?

23 A. Like it was across the street. I don't really
24 remember.

25 Q. And does he say anything to you as it relates to the

1 car? What does he say to you as it relates to the
2 car?

3 A. Told me to get in.

4 Q. And does he direct anybody else to get in, sir?

5 A. Powder.

6 Q. What does he say to Powder?

7 A. He said get in, asked her to get in the car.

8 Q. And does she get in the car, sir?

9 A. No, ma'am.

10 Q. Do you get in the car?

11 A. Yes, ma'am.

12 Q. And do the two of you drive away, sir?

13 A. Yes, ma'am.

14 Q. Where are you seated in the car?

15 A. In the front seat.

16 Q. And who's driving the car, sir?

17 A. Shawn.

18 Q. And where do you go at that point?

19 A. Like towards Dexter.

20 Q. And does the defendant drop you off somewhere?

21 A. Yes, ma'am.

22 Q. Where does he drop you off?

23 A. Tussey and Dexter.

24 Q. Could you tell me how long you have known the
25 defendant Michon Houston or the person you know as

1 Shawn?

2 A. I'm really not too sure.

3 Q. Well, have you known him for months or years, sir?

4 A. Probably a few months.

5 Q. Would that be a few months before this shooting

6 happened in September?

7 A. Yes, ma'am.

8 Q. How long had you known Powder?

9 A. I had just met her the summer.

10 Q. The summer?

11 A. Yes, ma'am.

12 Q. Do you recall describing the defendant Shawn to the

13 police officer, sir; Do you remember telling the

14 police what Shawn looks like?

15 A. When was this?

16 Q. When you gave your statement to the police, sir.

17 A. Yes, ma'am.

18 Q. Do you remember telling what he looked like?

19 A. Yes, ma'am.

20 Q. And did you tell them anything about tatoos, sir?

21 A. Yes, ma'am.

22 Q. And what did you tell the police as it relates to

23 tatoos?

24 A. He has tatoos under his eye.

25 Q. And you already pointed out the defendant here in

1 court; is that correct?

2 A. Yes, ma'am.

3 Q. Do you see tatoos under the defendant's eyes?

4 A. Yes, ma'am.

5 Q. And you described those tatoos in your statement as
6 what, sir?

7 A. Tatoos of tears.

8 Q. How would you describe the tatoos on the defendant's
9 face now?

10 A. Tatoo tears.

11 MS. TOWNS: I have no additional
12 questions. Thank you, sir.

13 MR. PARKER: May I, please?

14 THE COURT: Your witness.

15

16 CROSS-EXAMINATION

17 BY MR. PARKER:

18 Q. Mr. Johnson, you said you knew Mr. Houston for how
19 long?

20 A. I don't remember for sure.

21 Q. You said what, a couple of months?

22 A. I knew him before he went to prison, but we wasn't
23 kicking it like that until like around about the
24 beginning of summer.

25 Q. But you had known him before this incident happened

1 like years, right?

2 A. Yeah, I met him before.

3 Q. You met him before. Okay. So let's talk about this
4 day when this event happened. What day did it
5 happen? Do you remember?

6 A. I don't remember the exact day.

7 Q. You don't remember the exact day?

8 A. No, sir.

9 Q. Do you remember telling the police what day you
10 thought it was or them telling you what day you
11 thought it was?

12 A. They told me what day it was.

13 Q. Oh, they told you what day it was. Okay.

14 A. They reminded me the day.

15 Q. Well, your statement says Saturday, but you're
16 telling me and you're telling this Court that the
17 police told you what day too, right?

18 A. I said a Saturday.

19 Q. But you're also telling this Court that the police
20 told you certain things too; is that correct?

21 A. Yes, sir.

22 Q. About this incident?

23 A. Yes, sir.

24 Q. About this homicide?

25 A. Yes, sir.

1 Q. Now, when this event happened it happened 5 o'clock
2 in the morning; is that fair, somewhere around there?

3 A. Yes, sir.

4 Q. So let's talk about where you were coming from.

5 Where were you coming from before you got to that
6 particular house?

7 A. The Zodiac.

8 Q. What's the Zodiac? Can you tell the Court what the
9 Zodiac is?

10 A. It's an after hour motorcycle club.

11 Q. How long had you been at the Zodiac?

12 A. I don't really know that for sure.

13 Q. Could it have been hours?

14 A. It was hours:

15 Q. Were you drinking?

16 A. Yes, sir.

17 Q. Doing any drugs?

18 A. No, sir.

19 Q. Just doing a lot of drinking?

20 A. It was fair.

21 Q. I can't hear you.

22 A. It was fair.

23 Q. It was what?

24 A. Yeah, we was drinking.

25 Q. And you said that Powder was driving?

1 A. That I can remember, yes, sir.

2 Q. That you remember. Do you remember what type of car
3 she was driving?

4 A. No, sir, not exactly.

5 Q. You described a situation later on after this event
6 happened where you leave the scene and you say you
7 leave in a car that Mr. Houston is driving now?

8 A. Yes, ma'am--I mean, yes, sir.

9 Q. Is this the same car that you went to the Zodiac in?

10 A. Yes, sir.

11 Q. But you don't know or remember what type of car it
12 was?

13 A. It's made like a Taurus. I don't know what kind of
14 car it was, if it was exactly a Taurus.

15 Q. You've never been in this car before?

16 A. Not until that day.

17 Q. So this was the first time in this car?

18 A. Yes, sir.

19 Q. And Powder was driving it the first time and then the
20 next time Mr. Houston is driving it; is that fair?

21 A. Yes, sir.

22 Q. You talk about getting to that location, the porch as
23 you described it, and you say it belongs, this house,
24 belongs to a lady named Lisa; is that fair?

25 A. Yes, sir.

1 Q. Do you know Lisa's last name?

2 A. No, sir.

3 Q. Do you know Lisa's relationship to that house?

4 A. She lives there.

5 Q. She lives there but do you know that she owned the
6 house? Does she just stay there paying rent?

7 A. No, sir, she doesn't own it.

8 Q. She doesn't own it?

9 A. No, sir.

10 Q. You know that?

11 A. Yes, sir.

12 Q. Had you been to that house many times fore?

13 A. Yes, sir.

14 Q. So you've been to this house. So you're out there
15 selling drugs; is that a fair statement?

16 A. No, sir.

17 Q. And how many times prior to that day September 6th
18 were you out there selling drugs?

19 MS. TOWNS: Relevancy, drugs?

20 THE COURT: Sustain the objection.

21 BY MR. PARKER:

22 Q. This event happened September 6th. You made a
23 statement to the police officers; is that correct?

24 A. Yes, sir.

25 Q. Do you remember what date you made a statement to the

1 police officers?

2 A. Not exactly.

3 Q. If I show you a piece of paper with a statement that
4 supposedly had your signature on it, do you think
5 that might refresh your memory?

6 A. Might.

7 MR. PARKER: May I approach?

8 THE COURT: You may.

9 BY MR. PARKER:

10 Q. Is that your statement, sir?

11 A. Yes, sir.

12 Q. Is that the date?

13 A. Yes, sir.

14 Q. Does that refresh your memory as to what the date was
15 that you gave this statement?

16 A. Yes, sir.

17 Q. What date was that?

18 A. 11/7.

19 Q. Okay.

20 MS. TOWNS: No-

21 THE WITNESS: 17th. I'm sorry about
22 that.

23 THE COURT: Is that what you meant,
24 11/17?

25 THE WITNESS: Yes, sir.

1 BY MR. PARKER:

2 Q. Obviously there's some time in between September 6th
3 and 11/17; is that fair?

4 A. Yes, sir.

5 Q. Had you talked to the police about this incident
6 between September 6th?

7 A. No, sir.

8 Q. Not at all; never talked to anybody about this
9 incident?

10 A. No, sir.

11 Q. Do you know a person named Paul Lee?

12 A. Yes, sir.

13 Q. How do you know Mr. Lee?

14 A. My friend.

15 Q. He's a friend. How long have you known Mr. Lee?

16 A. About three years.

17 Q. Do you know if Mr. Lee was questioned about this
18 particular incident?

19 A. No, sir.

20 Q. Do you know where Mr. Lee lives?

21 A. Yes, sir.

22 Q. Let's talk about September 6th. Who else was out
23 there that you observed? You talked about Powder?

24 A. Yes, sir.

25 Q. Anybody else out there?

1 A. No, sir.

2 Q. Did you see anybody else out there?

3 A. No, sir.

4 Q. Sir, do you have any prior convictions?

5 MS. TOWNS: Objection to the form of
6 the question. It's improper.

7 THE COURT: Sustain the objection.

8 BY MR. PARKER:

9 Q. Well, do you have any prior convictions going back
10 ten years for truth and veracity?

11 A. What you say?

12 Q. Do you have any prior convictions dating within the
13 last years that involve dishonesty?

14 A. No, sir.

15 Q. None whatsoever?

16 A. Not that I can think of.

17 Q. None that you can think of?

18 A. No, sir.

19 Q. You gave a statement on November 17th?

20 A. Yes, sir.

21 Q. Did you just go to the police station and give a
22 statement?

23 A. No, sir.

24 Q. What was the nature of the circumstances of you
25 coming to give that statement?

1 A. Homicide came and got me out of the county.

2 Q. Homicide came to get you?

3 A. Yes, sir.

4 Q. Did you ask to speak to any of the officers?

5 A. No, sir.

6 Q. Were you in lock-up at the time?

7 A. Yes, sir.

8 Q. And you never said I want to speak to anybody about
9 this particular incident?

10 A. No, sir.

11 Q. So, when these Homicide officers came and got you,
12 did they question you?

13 A. Yes, sir.

14 Q. Do you remember what date they came and got you out
15 of your cell?

16 A. I think it was the 17th.

17 Q. You think it was the 17th?

18 A. Yeah, that's what the statement is.

19 Q. Well, that's what the statement says?

20 A. It was the 17th.

21 Q. It was the same day you gave the statement?

22 A. Right.

23 Q. So they came and got you. How soon later did you
24 give the statement after they came and got you?

25 A. I don't know for sure.

1 Q. Well, when they were asking you to give a statement,
2 did they just say will you just give us a statement
3 about this and you gave a statement; how did you
4 give a statement?

5 A. How did I give a statement?

6 Q. Yes. Did they question you?

7 A. Yes, sir, they questioned me.

8 Q. Well, did they tell you about certain things that
9 happened?

10 A. Yes, sir.

11 Q. And, what did they tell you, that you're involved in
12 it?

13 A. Yes, sir.

14 Q. And did they threaten you that if you didn't give a
15 statement that they would charge you with this
16 murder?

17 A. Yes, sir.

18 Q. They told you those things, right?

19 A. Yes, sir.

20 Q. They gave you the date and the areas and the time
21 this event happened; is that a fair statement?

22 A. Yes, sir.

23 Q. And they gave you this information before you gave
24 them any information; is that fair?

25 A. Yes, sir.

1 Q. They gave you these types of bits of information
2 before you signed your name to this piece of paper?

3 MS. TOWNS: I'm sorry. This has
4 been asked and answered. This is a preliminary
5 examination.

6 THE COURT: I'll allow this
7 question. You may.

8 BY MR. PARKER:

9 Q. Before you signed this piece of paper the officers
10 gave you information about the incident?

11 A. Yes, sir.

12 Q. You said that you were across the street making
13 observations of what you saw Mr. Houston do; is that
14 fair?

15 A. Yes, sir.

16 Q. But yet you say that when you see this person come up
17 that you were able, what, just to say what you want
18 and that person was able to see or hear because you
19 said you were on the porch; is that fair?

20 A. Yes, sir.

21 Q. So you're on the porch and you're able to say what do
22 you want and that person is able to hear because you
23 described it as being across the street, right?

24 A. Yes, sir.

25 Q. So they were able to hear?

1 A. I think he heard. I don't know if he heard me or
2 not. I don't know at this point.

3 Q. Then you say after the prosecutor questioned you that
4 you never actually interacted with this person
5 because Mr. Houston did; is that fair?

6 A. Yes, sir.

7 Q. So what? Are you in competition for sales?

8 MS. TOWNS: Judge, relevance.

9 THE COURT: I'll overrule the
10 objection.

11 BY MR. PARKER:

12 Q. Are you all in competition for this particular sales
13 out there?

14 A. It's not competition, but I would have rather had the
15 money.

16 Q. Not competition but you'd rather have the money. You
17 say that you observed Mr. Houston go across the
18 street and you say that he chased this person; is
19 that fair?

20 A. Yes, sir.

21 Q. And you described him as chasing him around you say a
22 tree?

23 A. Yes, sir.

24 Q. Now, how wide, do you remember, is that street?

25 A. I didn't have no rulers, sir. I don't know all about

1 that.

2 Q. You know trees--you know that area, right?

3 A. I don't know, sir.

4 Q. Have you seen that tree before?

5 A. Yes, sir.

6 Q. Because you've been across that street looking at
7 that tree for many a day, right?

8 A. Yes, sir.

9 Q. Is it a wide tree versus a small tree like this
10 microphone? Is it a wide tree?

11 A. It's a wide tree.

12 Q. So when you say Mr. Houston you described him as
13 chasing him around this tree. Is he going all the
14 way around in a circle or just go around once? Do
15 you remember?

16 A. Like a half a circle.

17 Q. Then you say you see Mr. Houston chase him?

18 A. He was behind him.

19 Q. And you saw--you described Mr. Houston shooting at
20 him; is that fair?

21 A. Yes, sir.

22 Q. Let's talk about how many shots you heard at what
23 point in time. He's chasing him. He's behind him.
24 Do you hear or do you see shots the first time or
25 heard the shorts? You heard a shot?

1 A. Yes, sir.

2 Q. How many did you hear?

3 A. Around about two or three.

4 Q. About two or three. And then what? Do you see this
5 person fall down?

6 A. Yes, sir.

7 Q. So that two or three shots. Then what happened next?

8 A. He stood over him.

9 Q. Now, when he's standing over him, are you still on
10 the porch?

11 A. Yes, sir.

12 Q. Now, when you describe this field being across the
13 street, I take it it's just a regular street; it's a
14 side street or a residential street?

15 A. Residential street.

16 Q. Residential street. You know on a residential street
17 you have your street; you usually have maybe that
18 front part of the cross; you have your sidewalk and
19 you have grass, that type of situation?

20 A. Yes, sir.

21 Q. You're describing this thing happening in a field?

22 A. Yes, sir.

23 Q. Is this field--would this field be a place where
24 houses normally be that probably aren't there
25 anymore?

1 A. Yes, sir.

2 Q. How far into the field is this tree that you're
3 describing?

4 A. The middle of the field.

5 Q. If a house was there, based on those houses that were
6 on that particular block, where do you think that
7 tree would be? Would it be like in the-

8 THE COURT: Your inquiry has to be
9 the distance of the tree from where the house
10 was?

11 MS. TOWNS: I think he said if a
12 house was there, first of all, relevance.

13 THE COURT: I'll sustain the
14 objection on the form of the question.

15 Distance and feet obviously fall into ability to
16 observe, so you certainly may make that inquiry.

17 BY MR. PARKER:

18 Q. I'm just trying to get some type of feel for where
19 that tree is. How far do you think that tree is from
20 the sidewalk? Let's just start there.

21 A. If a house was there it would have been in the
22 backyard.

23 Q. Is there an alley that runs out there to behind that
24 field?

25 A. Yes, sir.

1 Q. So that would be in the backyard. So all the time
2 you're making these observations across the street on
3 this front porch-

4 A. Yes, sir.

5 Q. It's five o'clock in the morning. I take it it's
6 dark outside, right?

7 A. Yes, sir.

8 Q. Is there any lighting around there?

9 A. Street lights.

10 Q. Are there street lights in that field?

11 A. No, sir.

12 Q. So you're making these observations. You either hear
13 or see a couple of shots being fired. Can you see
14 the person that's being shot at? Is he on the
15 ground?

16 A. Yes, sir.

17 Q. Can you see him on the ground from where you are?

18 A. Yes, sir.

19 Q. Can you tell whether or not he's on the ground laying
20 face down or face up?

21 A. Face up.

22 Q. At that point in time do you hear or see any other
23 shots?

24 A. Yes, sir.

25 Q. How many?

1 A. About two or three.

2 Q. All right. Then at that point in time Mr. Houston
3 comes back?

4 A. Yes, sir.

5 Q. Now, these shots, are these shots from a very loud
6 gun or a very silent gun in your opinion?

7 A. It was a loud gun.

8 Q. You heard gunshots before, haven't you?

9 A. Yes, sir.

10 Q. Do you carry a gun?

11 MS. TOWNS: Relevance.

12 THE WITNESS: No, sir.

13 THE COURT: I'll allow the answer to
14 stand.

15 BY MR. PARKER:

16 Q. You heard the gun. Did anybody come out; meaning
17 people like neighbors, or in these houses because
18 there's houses next to this field; is that correct?

19 A. Yes, sir.

20 Q. And you say at least a total of what, four, five,
21 six, maybe more, shots had been fired?

22 A. Yes, sir.

23 Q. And these are loud shots?

24 A. Yes, sir.

25 Q. At this point in time Mr. Houston comes back. He

1 talks to you. He has you go do something. So how
2 long do you think you were out there before you
3 eventually left that scene from the time those shots
4 were first fired?

5 A. Probably around about two or three minutes.

6 Q. Two or three minutes?

7 A. Yes, sir.

8 Q. So shots were fired. Mr. Houston comes back, says
9 something to you. You go across the street, right?

10 A. Yes, sir.

11 Q. And do you talk to this person lying on the ground?

12 A. Yes, sir.

13 Q. And then you come back?

14 A. Yes, sir.

15 Q. Are you running?

16 A. I don't remember that for sure.

17 Q. You're saying this took a period of two or three
18 minutes?

19 A. Yes, sir.

20 Q. All right. Then you get into the car?

21 A. Yes, sir.

22 Q. Mr. Houston goes and gets the car you described; is
23 that correct?

24 A. Yes, sir.

25 Q. What do you mean he goes and gets the car? Was the

1 car there or not there?

2 A. Across the street.

3 Q. Well, you first described the shooting as one where
4 you see Mr. Houston shoot the guy from behind; is
5 that correct?

6 A. From behind.

7 Q. Meaning that this guy has his back turned running
8 away from Mr. Houston?

9 A. Yes, sir.

10 Q. And Mr. Houston is shooting at him?

11 A. Yes, sir.

12 Q. And you say he falls at that time?

13 A. Yes, sir.

14 Q. And then you describe Mr. Houston as shooting this
15 person. How close was Mr. Houston or this person
16 shooting at this person on the ground?

17 A. He was across from him.

18 Q. Let's talk about it in terms of where you're sitting
19 versus say where this door is of your witness booth;
20 is it that close?

21 A. About the same distance.

22 Q. About the same distance.

23 MR. PARKER: Can I have a
24 measurement? I'm saying two feet or less than
25 two feet.

1 MS. TOWNS: I really don't
2 understand what the witness is talking about
3 from.

4 THE COURT: First of all, the
5 distance indicated would be a distance of 18 to
6 24 inches, and that would be from the door to
7 where you're sitting?

8 THE WITNESS: Yes, sir.

9 THE COURT: Now, go ahead with your
10 inquiry. You have redirect on the issue of
11 where he was standing where the shots were
12 fired. That's the issue that's being addressed
13 now.

14 MR. PARKER: Thank you.

15 BY MR. PARKER:

16 Q. So you're saying somebody is shooting over this
17 person on the ground?

18 A. Yes, sir.

19 Q. And can you see the position of the gun as the shots
20 are being fired?

21 A. No, sir.

22 Q. You can't see the position?

23 A. No, sir.

24 Q. You couldn't tell whether they were down or up or
25 anything like that?

1 A. A little down.

2 Q. It was down?

3 A. Yes, sir.

4 Q. It was dark outside, right?

5 A. Yes, sir.

6 Q. Did you see flashes or sparks or that kind of thing?

7 A. No, sir.

8 Q. But you just heard the noise and you saw?

9 A. Yes, sir.

10 Q. You said that you eventually left that area, that
11 scene, in a car driven by Mr. Houston; is that
12 correct?

13 A. Yes, sir.

14 Q. How did he drive away? Do you remember? Was
15 there--was it fast? Did he just cruise away?
*
16 A. Fast.

17 Q. How do you know it was fast?

18 A. I was in the car with him.

19 Q. You were in the car. Did you hear any noise;
20 screeching of the tires, that type of fast or just
21 driving away briskly?

22 A. Pulling off pretty fast. I don't remember hearing
23 any squeaks, though.

24 Q. When you went to see that person on the ground did
25 you search that person to see if he had any money?

1 A. No, sir.

2 Q. Do you know a person named Crooks (ph) ?

3 A. Crooks?

4 Q. Yes. Also known as Country (ph) ?

5 A. Yes, sir.

6 Q. How do you know him?

7 A. One of the guys on the block.

8 Q. One of the guys on the block?

9 A. Yes, sir.

10 Q. Do you all have a long relationship?

11 A. No, sir.

12 Q. On-going relationship?

13 A. No, sir.

14 Q. Do you all do things together, like sell drugs?

15 A. We sell drugs.

16 Q. So you would know him automatically, right?

17 A. Yeah, been on the block.

18 Q. But you would never have any problem recognizing him;
19 is that a fair statement?

20 A. Yes, sir.

21 Q. When the police arrested you and they got you in
22 jail, did you give them your correct name?

23 A. Yes, sir.

24 Q. You've always given the police your correct name?

25 MS. TOWNS: Relevance on always.

THE COURT: Sustain the objection.

BY MR. PARKER:

Q. And it's your testimony that you never were questioned about this incident prior to those police officers coming to get you out of the jail or the homicide investigators coming to get you out of jail?

A. Yes, sir.

MR. PARKER: I have no further
questions, your Honor.

THE COURT: Thank you.

REDIRECT EXAMINATION

BY MS. TOWNS:

Q. Mr. Johnson, defense counsel asked you if you know a guy named Paul Lee. Do you remember him asking you that?

A. Yes, ma'am.

Q. And he asked you do you know if Paul Lee talked to the police and said no. Do you remember telling us that?

A Yes, ma'am.

Q. Does that mean no you don't know whether he talked to the police or no he did not talk to the police?

A I don't know.

Q. And when the police spoke with you did they tell you

1 what to say in your statement, sir?

2 A. No, ma'am.

3 Q. Did anybody force you to write anything down in your
4 statement, sir, right here, your statement?

5 A. No, ma'am.

6 Q. Now, you indicated--could you tell me if I am the
7 defendant and I'm standing right here, sir, could you
8 tell me approximately where the body of the man was
9 when he was shooting over him? If you look down here
10 on the floor please and direct me, if I am the
11 defendant with the gun in my hand, could you show me
12 where the body is.

13 A. Where the microphone stand at.

14 Q. And when we talk about the microphone stand right
15 here, sir?

16 A. Yes, ma'am.

17 Q. And is that the position where the gun was in
18 relationship to the body?

19 A Yes, ma'am.

20 Q. I'm sorry?

21 A. I don't really know because I couldn't see how
22 exactly the gun was faced

THE COURT: Well, are you talking

1 about the open space between her feet and the
2 microphone?

3 BY MS. TOWNS:

4 Q. Look where my feet are, sir. Is the body where the
5 microphone is closer or farther away?

6 A. About the same length right there where you at.

7 THE COURT: Indicating for the
8 record, two and a half feet.

9 BY MS. TOWNS:

10 Q. You didn't willingly come forward and tell the police
11 what you saw; isn't that correct?

12 A. Yes, ma'am.

13 Q. Why was that--why didn't you come forward and say
14 that you witnessed this murder?

15 A. Scared.

16 Q. What you are scared of, sir?

17 A. For my life.

18 Q. When you were out there, did you stand and take a
19 look all around the streets and the alleys to see who
20 was out there?

21 A. No, ma'am.

22 Q. So, if other people were out there in the alley or
23 the street, you don't know if they were there? Can
24 you tell me that or not?

25 A. No, ma'am.

1 MS. TOWNS: I have no additional
2 questions. Thank you, sir.

3 MR. PARKER: Just briefly.
4

5 RECROSS-EXAMINATION

6 BY MR. PARKER:

7 Q. Sir, but you were out there how long before this
8 person that we're talking about came up; and the
9 decedent in this case, how long had he been out
10 there?

11 A. About an hour.

12 Q. It's five o'clock in the morning. Was there a lot of
13 traffic out there?

14 A. No, sir.

15 Q. And you had been out there for a few hours; is that
16 correct?

17 A. I don't know the exact time.

18 Q. Somewhere around an hour?

19 A. About a half hour.

20 Q. This is a place where you had been many times?

21 A. Yes, sir.

22 Q. So you know the surrounding--you know who lives in
23 these houses that you're standing and sitting in
24 front of?

25 A. Yes, sir.

1 Q. So you know everybody out there basically?

2 A. Yes, sir.

3 Q. All right. But you didn't really see anybody out
4 there at the time?

5 A. No, sir.

6 Q. Now, while you were out there making these
7 observations, were you also drinking at that time?

8 A. No, sir.

9 Q. Now, the prosecutor asked you did anybody threaten
10 you to make a statement or anything like that, did
11 they?

12 A. No, sir.

13 Q. You don't think they did?

14 A. No, sir.

15 Q. Do you think the fact that you're in jail--are you
16 expecting something for testifying?

17 A. No, sir.

18 Q. You don't expect anything positive to happen?

19 A. No, sir.

20 Q. So you're just testifying because you want to?

21 A. It's a messed up situation.

22 Q. It's a messed up situation?

23 A. Yes, sir.

24 Q. It's a messed up situation, but you just told this
25 court a little while ago that you felt they were

1 going to charge you with the crime; isn't that fair?

2 A. Yes, sir.

3 Q. Is it?

4 A. Yes, sir.

5 Q. So they did tell you that, right?

6 MS. TOWNS: Judge, I object. It's
7 been asked and answered. He doesn't like the
8 answer so he keeps trying to ask him the
9 questions-

10 THE COURT: This is recross based
11 upon redirect, and I don't know that there was
12 any inquiry in this area. I'm trying to give
13 you some latitude.

14 MR. PARKER: Thank you. I
15 appreciate that, your Honor, but I thought the
16 prosecutor did ask whether or not this witness
17 is testifying freely or voluntarily or were they
18 threatened or whatever.

19 THE COURT: That was on direct.

20 That was not on redirect.

21 MR. PARKER: I thought we brought
22 that up on redirect. Okay.

23 BY MR. PARKER:

24 Q. But I didn't understand the question--the answer to
25 the question about had you been drinking when you got

1 to the location when you were selling the drugs?

2 A. No, sir.

3 Q. And you didn't hear anybody else after those gunshots
4 went off or you didn't see anybody out there?

5 A. No, sir.

6 MR. PARKER: I have no further
7 questions.

8 MS. TOWNS: I have no additional
9 questions.

10 THE COURT: Thank you, Counsel. You
11 may step down at this time, sir.

MS. TOWNS: Your Honor, we would move for the defendant to be bound over on the counts charged in the Warrant; count one, first degree premeditated murder. There's been stipulations as it relates to count two, Judge, and count three, use of a firearm during the course of a felony.

19 MR. PARKER: I object to the
20 bindover, your Honor. I feel that the witness'
21 credibility is very much at--the history in the
22 case is that this person first talks about being
23 threatened that he could be charged with this
24 particular crime, and then certainly after being
25 questioned by the prosecutor changed his

degree count involves requisite enhancement of premeditation. The shooting of the decedent and then upon the decedent being on the ground coming to where he was on the ground and firing additional shots would be enough to satisfy the premeditation element for purposes of the preliminary examination. Obviously this is not a finding beyond a reasonable doubt, but in a probable cause hearing certain probable cause to believe the defendant committed the crimes contained in the Warrant and Complaint while in the city of Detroit. Therefore, the defendant will stand bound over to the Wayne County Circuit Court for further proceedings. The date set for the Arraignment on the Information is?

16 OFFICER BORDEN: February 9th at 9
17 a.m.

MS. TOWNS: Thank you, your Honor.

19 (The proceedings concluded at
20 approximately 3:31 p.m.)

C E R T I F I C A T E

STATE OF MICHIGAN)

COUNTY OF WAYNE)

I certify that this transcript,
consisting of 54 pages, is a complete, true, and
correct transcript of the proceedings and
testimony taken in this case on January 29,
2003.

2-24-03

DATE

Sherayna) Spike Moon

Sherrayna White Moore
421 Madison, Suite 4066
Detroit, Michigan 48226

Mechanically reproduced copies of this transcript are not certified unless the certificate page bears an original signature.